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Nos. 568-569-570.

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DEC
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IN THE

Supreme Court of the United States

OCTOBER TERM, 1931.

No. 568.

UNITED STATES OF AMERICA,

v.

SWIFT & COMPANY, *et al.*

No. 569.

AMERICAN WHOLESALE GROCERS ASSOCIATION,

v.

SWIFT & COMPANY, *et al.*

No. 570.

NATIONAL WHOLESALE GROCERS ASSOCIATION,

v.

SWIFT & COMPANY, *et al.*

On appeal from the Supreme Court of the District of Columbia.

MOTION BY NATIONAL WHOLESALE GROCERS ASSOCIATION TO ADVANCE.

WILLIAM C. BREED,
BREED, ABBOTT & MORGAN,
Attorneys for National Wholesale Grocers Association of the United States,
15 Broad Street,
Borough of Manhattan,
City of New York.

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On appeal from the Supreme Court of the District of Columbia.

MOTION BY NATIONAL WHOLESALE GROCERS ASSOCIATION TO ADVANCE.

The National Wholesale Grocers Association, pursuant to Rule 20, paragraphs 5 and 6, of this Court, moves to advance the above entitled cause for a hearing on or as

near the 7th day of March, 1932, as may be agreeable to the Court.

The United States of America, by Honorable Thomas D. Thacher, Solicitor General, has moved this Court to advance the above entitled cause for a hearing on or as near the 7th day of March, 1932, as may be agreeable to the Court.

In the Government's motion papers the facts of the case are briefly outlined beginning with the entry of the consent decree by the Supreme Court of the District of Columbia on February 27, 1920, and it will not be necessary for the National Wholesale Grocers Association again to set forth these facts.

The petition of the National Wholesale Grocers Association for an appeal to this Court was allowed on March 31, 1931.

On November 5, 1921, the National Wholesale Grocers Association was granted leave to intervene in this suit of United States of America against Swift & Company, *et al.*, and an order was entered to that effect by Mr. Justice Wendell P. Stafford, of the Supreme Court of the District of Columbia.

Since the granting of said order of November 5, 1921, allowing intervention, the National Wholesale Grocers Association, intervener, has actively opposed all of the efforts of the defendant packers to secure a vacation or modification of the consent decree, submitted briefs and participated in the oral arguments before the United States Supreme Court. As the result of these proceedings said decree was held to be valid and binding and was ordered to be enforced (276 U. S. 311; 279 U. S. 553).

In the present proceedings by the packers for modification of the said consent decree this intervener appeared,

filed answers to the petitions, examined and cross-examined witnesses, and submitted briefs and oral arguments in opposition to the requested modifications.

There is but one case and one record before this Court and in it are incorporated testimony, exhibits and other documents submitted during the present proceeding before the Supreme Court of the District of Columbia. The said record is captioned "No. 568, United States of America *v.* Swift & Company, *et al.*, No. 569, American Wholesale Grocers Association *v.* Swift & Company, *et al.*, No. 570, National Wholesale Grocers Association *v.* Swift & Company, *et al.*"

The United States of America moved this Court to advance the cause under Rule 20, paragraph 6, of the Rules of this Court, inasmuch as the United States is a party.

The National Wholesale Grocers Association is also a party by reason of its intervention pursuant to said above-mentioned order of November 5, 1921. Its interest in this litigation is closely associated with that of the Government. Its appeal should be heard at the same time.

This matter has been adjudicated by this Court upon the merits (276 U. S. 311) and for this additional reason the National Wholesale Grocers Association moves this Court, under Rule 20, paragraph 5. An early decision of this appeal is of importance to those engaged in the business of handling food products and to the public generally and for these reasons it is respectfully urged that the appeal of the National Wholesale Grocers Association be

advanced for hearing to the same date as the Government's appeal will be heard.

Dated, December 28, 1931.

WILLIAM C. BREED,
BREED, ABBOTT & MORGAN,
Attorneys for National Wholesale Grocers Association of the United States,
15 Broad Street,
Borough of Manhattan,
City of New York.